

AMENDED IN SENATE APRIL 24, 2003

AMENDED IN SENATE MARCH 20, 2003

SENATE BILL

No. 204

Introduced by Senators Perata, Alpert, Kuehl, and Romero
(Coauthors: Assembly Members Hancock, ~~Harman~~, Longville, and Steinberg)

February 13, 2003

An act to add Chapter 11 (commencing with Section 42580) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 204, as amended, Perata. Solid waste: personal care products: recycling.

Existing law requires the California Integrated Waste Management Board to administer state programs to recycle plastic trash bags, plastic packaging containers, waste tires, newsprint, and other specified materials.

This bill would ~~require the board to provide grants to local agencies, as defined, for the purposes of funding programs for the recycling and diversion from landfill disposal of personal care products~~ *declare that personal care products represent a substantial portion of the materials that are still disposed of in landfills without a significant effort to divert the materials*. The bill would define a "personal care product" to mean a disposable product composed of plastic and paper materials that is worn by a person of any age for the purpose of capturing human waste.

The bill would require ~~every person who purchases a personal care product from a retail seller to pay the seller~~ *a person that manufacturers*

personal care products to pay the board a diversion and recycling fee of \$0.0025 per personal care product manufactured by that person and sold or distributed in the state. The bill would require the retail seller to charge the purchaser the amount of the diversion and recycling fee at the time of sale and to remit to the board on a quarterly schedule the collected fees, for deposit in the Personal Care Product Recycling Account. The bill would establish the Personal Care Product Recycling Account in the Integrated Waste Management Fund and would require the board to deposit those fees in the account. The bill would continuously appropriate the funds in the account to the board for expenditure by the board to provide to eligible local agencies and waste haulers grants for the recycling and diversion from landfill disposal of personal care products.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 11 (commencing with Section 42580)
2 is added to Part 3 of Division 30 of the Public Resources Code, to
3 read:

4
5 CHAPTER 11. PERSONAL CARE PRODUCT RECYCLING
6

7 42580. The Legislature finds and declares all of the
8 following:

9 (a) Local agencies have made great strides in recent years in
10 their efforts to meet the requirement of a 50 percent rate of
11 diversion from the waste stream. However, many are still working
12 to meet this requirement and some are seeking to reach a 75 percent
13 rate of diversion.

14 (b) Local agencies continue to face difficulty in funding their
15 responsibilities, including their responsibility to divert materials
16 from the waste stream. The current downturn in the economy and
17 the state budget crisis has increased these difficulties.

18 (c) Personal care products represent a substantial portion of the
19 materials that still are disposed of in landfills without a significant
20 effort to divert the materials. It is estimated that personal care
21 products represent somewhere between one and one-half and 3
22 percent of the materials disposed of in landfills in California. This

means that personal care products are among the largest single product disposed of in landfills in California. Some components of personal care products can take up to 500 years to degrade. According to the United States Environmental Protection Agency, nearly 20 billion disposable personal care products containing 5 million tons of untreated human waste are disposed of in United States landfills each year.

42581. For the purposes of this chapter, the following terms have the following meanings, unless the context clearly requires otherwise:

(a) “Account” means the Personal Care Product Recycling Account established under subdivision (a) of Section 42582 in the Integrated Waste Management Fund.

(b) “Diversion and recycling fee” means the fee imposed upon the sale of a personal care product pursuant to subdivision (b) of Section 42582.

(c) “Local agency” means ~~any~~ a city, county, city and county, district, regional agency as defined in Section 40181, or other agency of local government that provides or regulates solid waste handling services.

(d) “Personal care product” means a disposable product composed of plastic and paper materials that is worn by a person of any age for the purpose of capturing human waste. “Personal care product” does not include a feminine hygiene product.

(e) “Retail seller” means a retail establishment that offers the sale of personal care products to consumers, including, but not limited to, for household or institutional use.

42582. (a) The Personal Care Product Recycling Account is hereby established in the Integrated Waste Management Fund. Notwithstanding Section 13340 of the Government Code, all funds in the account are hereby continuously appropriated to the board, without regard to fiscal years, for expenditure by the board to implement Sections ~~42585~~ 42583 and 42584.

~~(b) (1) Every person who purchases from a retail seller a personal care product shall pay to that seller a diversion and recycling fee of one-fourth cent (\$0.0025) per personal care product.~~

~~(2) The retail seller shall charge the purchaser the amount of the diversion and recycling fee as a charge that is separate from, and~~

1 ~~not included in, any other fee, charge, or other amount paid by the~~
2 ~~purchaser.~~

3 ~~(3) The retail seller shall collect the diversion and recycling fee~~
4 ~~from the purchaser at the time of sale and shall remit the diversion~~
5 ~~and recycling fees collected to the board on a quarterly schedule~~
6 ~~for deposit in the Personal Care Product Recycling Account.~~

7 *(b) A person that manufactures personal care products shall*
8 *pay to the Integrated Waste Management Board a diversion and*
9 *recycling fee of one-fourth of one cent (\$0.0025) per personal care*
10 *product manufactured by that person and sold or otherwise*
11 *distributed in the state. A fee may not be assessed on the separate*
12 *plastic and paper components used in manufacturing a personal*
13 *care product. The board shall deposit those fees in the Personal*
14 *Care Product Recycling Account.*

15 42583. The board shall expend the money in the account to
16 provide grants to eligible local agencies *and waste haulers* for the
17 purpose of funding programs for the recycling and diversion from
18 landfill disposal of personal care products. A recycling and
19 diversion program that receives a grant shall meet all of the
20 following conditions:

21 (a) Meet eligibility requirements adopted by the board in
22 consultation with local agencies and waste haulers.

23 (b) Require the separation of personal care products from the
24 waste stream at either the point of waste collection or at a facility
25 established for the purpose of sorting and separating materials that
26 would otherwise be disposed of in a landfill. *The eligibility*
27 *requirements adopted pursuant to subdivision (a) may allow for*
28 *phased-in programs and for programs in which part of the*
29 *personal care products in a local entity's waste stream is diverted*
30 *and recycled.*

31 (c) Require the materials collected and separated to be
32 processed so that human waste is in a condition that allows
33 treatment by ~~the local entity's sewage treatment facilities~~ *a sewage*
34 *treatment facility* or allows marketing to businesses that can use the
35 ~~byproduct~~ *human waste* in the course of their business in
36 conformity with all laws and regulations covering the use of
37 human waste ~~byproducts~~.

38 (d) Require the materials collected and separated to be
39 processed so that the plastic and paper will be of a quality and type
40 that may be used in the manufacturing of new products and that

1 meets all applicable laws relating to the use of recycled plastic and
2 paper.

3 42584. (a) The board shall set the amount of a grant provided
4 to a local agency as a percentage of the actual cost of implementing
5 a local agency's recycling and diversion program.

6 (b) Before awarding a grant to a local agency pursuant to this
7 chapter, the board shall require the local agency to certify that both
8 of the following are true:

9 (1) The local agency is in compliance with the diversion
10 requirements of Section 41780, as determined by the board.

11 (2) The local agency has in operation a program for diversion
12 and recycling of personal care products that meets the
13 requirements of Section 42583, or demonstrates it will have that
14 program in operation within six months of the date that the board
15 approves the issuance of the grant.

16 ~~42585. The Legislature finds and declares that the imposition~~
17 ~~of the fee pursuant to Section 42582 would not result in the~~
18 ~~imposition of a tax within the meaning of Article XIII A of the~~
19 ~~California Constitution, because the amount and nature of the fee~~
20 ~~has a fair and reasonable relationship to the adverse environmental~~
21 ~~burdens imposed by the disposal of those products and there is a~~
22 ~~sufficient nexus between the fees imposed and the use of those fees~~
23 ~~to support the diversion of these products from landfills.~~

